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APR 17 2018	
CLERK U.S. DISTRICT COURT	
DISTRICT OF ARIZONA	
BY	DEPUTY

13 IN THE UNITED STATES DISTRICT COURT

14 FOR THE DISTRICT OF ARIZONA

15 United States of America,

16 Plaintiff,

17 vs.

18 Samer Hussein,

19 Defendant.

CR- 17-01350-PHX-JJT (ESW)

PLEA AGREEMENT

20 Plaintiff, United States of America, and the defendant, Samer Hussein, hereby agree
21 to dispose of this matter on the following terms and conditions:

22 **1. PLEA**

23 The defendant will plead guilty to Count 1 of the Indictment charging the defendant
24 with a violation of Title 18, United States Code (U.S.C.), Sections 922(g)(1) and 924(a)(2),
25 Felon in Possession of a Firearm, a Class C felony offense.

26 The defendant will also consent to the forfeiture allegation in the Indictment.

27 **2. MAXIMUM PENALTIES**

28 a. A violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2), is punishable by a
maximum fine of \$250,000, a maximum term of imprisonment of 10 years, or both, and a
maximum term of supervised release of three years.

b. According to the Sentencing Guidelines issued pursuant to the Sentencing
Reform Act of 1984, the Court shall order the defendant to:

1 (1) make restitution to any victim of the offense pursuant to 18 U.S.C.
2 § 3663 and/or 3663A, unless the Court determines that restitution would not be
3 appropriate;

4 (2) pay a fine pursuant to 18 U.S.C. § 3572, unless the Court finds that a
5 fine is not appropriate;

6 (3) serve a term of supervised release when required by statute or when a
7 sentence of imprisonment of more than one year is imposed (with the understanding that
8 the Court may impose a term of supervised release in all other cases); and

9 (4) pay upon conviction a \$100 special assessment for each count to
10 which the defendant pleads guilty pursuant to 18 U.S.C. § 3013.

11 c. The Court is required to consider the Sentencing Guidelines in determining
12 the defendant's sentence. However, the Sentencing Guidelines are advisory, and the Court
13 is free to exercise its discretion to impose any reasonable sentence up to the maximum set
14 by statute for the crime(s) of conviction, unless there are stipulations to the contrary that
15 the Court accepts.

16 **3. AGREEMENTS REGARDING SENTENCING**

17 a. Acceptance of Responsibility. If the defendant makes full and complete
18 disclosure to the U.S. Probation Office of the circumstances surrounding the defendant's
19 commission of the offense, and if the defendant demonstrates an acceptance of
20 responsibility for this offense up to and including the time of sentencing, the United States
21 will recommend a two-level reduction in the applicable Sentencing Guidelines offense
22 level pursuant to U.S.S.G. § 3E1.1(a). If the defendant has an offense level of 16 or more,
23 the United States will recommend an additional one-level reduction in the applicable
24 Sentencing Guidelines offense level pursuant to U.S.S.G. § 3E1.1(b).

25 b. Stipulation: Sentencing Cap. Pursuant to Fed. R. Crim. P. 11(c)(1)(C), the
26 United States and the defendant stipulate and agree that the defendant shall be sentenced
27 to a term of imprisonment that does not exceed the low end of the Sentencing Guidelines
28 range, as determined by the Court at time of sentencing.

1 c. Non-Binding Recommendations. The defendant understands that
 2 recommendations are not binding on the Court. The defendant further understands that the
 3 defendant will not be permitted to withdraw the guilty plea if the Court does not follow a
 4 recommendation.

5 d. Assets and Financial Responsibility. The defendant shall make a full
 6 accounting of all assets in which the defendant has any legal or equitable interest. The
 7 defendant shall not (and shall not aid or abet any other party to) sell, hide, waste, spend, or
 8 transfer any such assets or property before sentencing, without the prior approval of the
 9 United States (provided, however, that no prior approval will be required for routine, day-
 10 to-day expenditures). The defendant also expressly authorizes the United States Attorney's
 11 Office to immediately obtain a credit report as to the defendant in order to evaluate the
 12 defendant's ability to satisfy any financial obligation imposed by the Court. The defendant
 13 also shall make full disclosure of all current and projected assets to the U.S. Probation
 14 Office immediately and prior to the termination of the defendant's supervised release or
 15 probation, such disclosures to be shared with the U.S. Attorney's Office, including the
 16 Financial Litigation Unit, for any purpose. Finally, the defendant shall participate in the
 17 Inmate Financial Responsibility Program to fulfill all financial obligations due and owing
 18 under this agreement and the law.

19 **4. AGREEMENT TO DISMISS OR NOT TO PROSECUTE**

20 a. This agreement does not, in any manner, restrict the actions of the United
 21 States in any other district or bind any other United States Attorney's Office.

22 **5. COURT APPROVAL REQUIRED; REINSTITUTION OF PROSECUTION**

23 a. If the Court, after reviewing this plea agreement, concludes that any
 24 provision contained herein is inappropriate, it may reject the plea agreement and give the
 25 defendant the opportunity to withdraw the guilty plea in accordance with Fed. R. Crim. P.
 26 11(c)(5).

27 b. If the defendant's guilty plea or plea agreement is rejected, withdrawn,
 28 vacated, or reversed at any time, this agreement shall be null and void, the United States

1 shall be free to prosecute the defendant for all crimes of which it then has knowledge and
2 any charges that have been dismissed because of this plea agreement shall automatically
3 be reinstated. In such event, the defendant waives any and all objections, motions, and
4 defenses based upon the Statute of Limitations, the Speedy Trial Act, or constitutional
5 restrictions in bringing later charges or proceedings. The defendant understands that any
6 statements made at the time of the defendant's change of plea or sentencing may be used
7 against the defendant in any subsequent hearing, trial, or proceeding subject to the
8 limitations of Fed. R. Evid. 410.

9 **6. WAIVER OF DEFENSES AND APPEAL RIGHTS**

10 The defendant waives (1) any and all motions, defenses, probable cause
11 determinations, and objections that the defendant could assert to the indictment or
12 information; and (2) any right to file an appeal, any collateral attack, and any other writ or
13 motion that challenges the conviction, an order of restitution or forfeiture, the entry of
14 judgment against the defendant, or any aspect of the defendant's sentence, including the
15 manner in which the sentence is determined, including but not limited to any appeals under
16 18 U.S.C. § 3742 (sentencing appeals) and motions under 28 U.S.C. §§ 2241 and 2255
17 (habeas petitions), and any right to file a motion for modification of sentence, including
18 under 18 U.S.C. § 3582(c). This waiver shall result in the dismissal of any appeal,
19 collateral attack, or other motion the defendant might file challenging the conviction, order
20 of restitution or forfeiture, or sentence in this case. This waiver shall not be construed to
21 bar an otherwise-preserved claim of ineffective assistance of counsel or of "prosecutorial
22 misconduct" (as that term is defined by Section II.B of Ariz. Ethics Op. 15-01 (2015)).

23 **7. DISCLOSURE OF INFORMATION**

24 a. The United States retains the unrestricted right to provide information and
25 make any and all statements it deems appropriate to the U.S. Probation Office and to the
26 Court in connection with the case.
27
28

1 b. Any information, statements, documents, and evidence that the defendant
2 provides to the United States pursuant to this agreement may be used against the defendant
3 at any time.

4 c. The defendant shall cooperate fully with the U.S. Probation Office. Such
5 cooperation shall include providing complete and truthful responses to questions posed by
6 the U.S. Probation Office including, but not limited to, questions relating to:

- 7 (1) criminal convictions, history of drug abuse, and mental illness; and
8 (2) financial information, including present financial assets or liabilities
9 that relate to the ability of the defendant to pay a fine or restitution.

10 **8. FORFEITURE, CIVIL, AND ADMINISTRATIVE PROCEEDINGS**

11 a. Nothing in this agreement shall be construed to protect the defendant from
12 administrative or civil forfeiture proceedings or prohibit the United States from proceeding
13 with and/or initiating an action for civil forfeiture. Pursuant to 18 U.S.C. § 3613, all
14 monetary penalties, including restitution imposed by the Court, shall be due immediately
15 upon judgment, shall be subject to immediate enforcement by the United States, and shall
16 be submitted to the Treasury Offset Program so that any federal payment or transfer of
17 returned property the defendant receives may be offset and applied to federal debts (which
18 offset will not affect the periodic payment schedule). If the Court imposes a schedule of
19 payments, the schedule of payments shall be merely a schedule of minimum payments and
20 shall not be a limitation on the methods available to the United States to enforce the
21 judgment.

22 b. The defendant agrees to forfeit, and hereby forfeits, all interest in any asset
23 that the defendant owns or over which the defendant exercises control, directly or
24 indirectly, as well as any property that is traceable to, derived from, fungible with, or a
25 substitute for property that constitutes the proceeds of the offense(s), or which was used to
26 facilitate the commission of the offense(s), including the following property:

- 27 • One F.LLI Pietta 1873 revolver, serial # E067782.
28

1 c. The defendant further agrees to waive all interest in any such asset in any
2 administrative or judicial forfeiture proceeding, whether criminal or civil, state or federal.
3 The defendant agrees to consent to the entry of orders of forfeiture for such property and
4 waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding
5 notice of the forfeiture in the charging instrument, announcement of the forfeiture at
6 sentencing, and incorporation of the forfeiture in the judgment. The defendant further
7 understands and agrees that forfeiture of the assets is appropriate and in accordance with
8 the applicable forfeiture statutes, which may include 8 U.S.C. § 1324(b), 18 U.S.C.
9 §§ 924(d), 981, 982 and 2253, 21 U.S.C. §§ 853 and 881, and 28 U.S.C. § 2461(c).

10 d. Forfeiture of the defendant's assets shall not be treated as satisfaction of any
11 fine, restitution, cost of imprisonment, or any other penalty this court may impose upon the
12 defendant in addition to forfeiture. This agreement does not preclude the United States
13 from instituting any civil or administrative forfeiture proceedings as may be appropriate
14 now or in the future.

15 e. The defendant agrees to waive all constitutional and statutory challenges in
16 any manner (including direct appeal, habeas corpus, double jeopardy or any other means)
17 to any forfeiture imposed as a result of this guilty plea or any pending or completed
18 administrative or civil forfeiture actions, including that the forfeiture constitutes an
19 excessive fine or punishment. The defendant agrees to take all steps as requested by the
20 United States to pass clear title to forfeitable assets to the United States, and to testify
21 truthfully in any judicial forfeiture proceeding. The defendant acknowledges that all
22 property covered by this agreement is subject to forfeiture as proceeds of illegal conduct,
23 property facilitating illegal conduct, and substitute assets for property otherwise subject to
24 forfeiture, and that no other person or entity has a legitimate claim to these items listed.

25 f. The defendant agrees not to file a claim to any of the listed property in any
26 civil proceeding, administrative or judicial, which may be initiated. The defendant further
27 agrees that he/she will not contest civil, administrative or judicial forfeiture of the listed
28 property. The defendant agrees to waive his/her right to notice of any forfeiture proceeding

1 involving this property, and agrees not to file a claim or assist others in filing a claim in
2 that forfeiture proceeding.

3 g. The government reserves its right to proceed against any remaining assets
4 not identified either in this agreement or in any civil actions which are being resolved along
5 with this plea of guilty, including any property in which the defendant has any interest or
6 control, if said assets, real or personal, tangible or intangible were involved in the
7 offense(s).

8 h. The defendant hereby waives, and agrees to hold the government and its
9 agents and employees harmless from any and all claims whatsoever in connection with the
10 seizure, forfeiture, and disposal of the property described above. Without limitation, the
11 defendant understands and agrees that by virtue of this plea of guilty, the defendant will
12 waive any rights or cause of action that the defendant might otherwise have had to claim
13 that he/she is a "substantially prevailing party" for the purpose of recovery of attorney fees
14 and other litigation costs in any related civil forfeiture proceeding pursuant to 28 U.S.C.
15 § 2465(b)(1).

16 **9. ELEMENTS**

17 **Felon in Possession of a Firearm**

18 On or about May 15, 2017, in the District of Arizona:

- 19 1. The defendant knowingly possessed a firearm;
- 20 2. The firearm had previously been shipped or transported in interstate or
21 foreign commerce;
- 22 3. At the time the defendant possessed the firearm, he had previously been
23 convicted of a crime punishable by a term of imprisonment exceeding one
24 year.

25 **10. FACTUAL BASIS**

26 a. The defendant admits that the following facts are true and that if this matter
27 were to proceed to trial the United States could prove the following facts beyond a
28 reasonable doubt:

1 On May 15, 2017, I, Samer Hussein, sold a F.LLI Pietta 1873 revolver to a
2 Federal Bureau of Investigation (FBI) Confidential Human Source (CHS). I
3 agree that the revolver had previously been shipped or transported in
interstate or foreign commerce.

4 I admit that at the time I sold the firearm to the FBI CHS, I had been
5 previously convicted of Criminal Damage on September 10, 2015 in
6 Maricopa County Superior Court, Cause No. CR2014-002066-003, and
7 Aggravated Assault on May 15, 2017 in Maricopa County Superior Court,
8 Cause No. CR2016-147931-001, both crimes punishable by imprisonment
for a term exceeding one year.

9 b. The defendant shall swear under oath to the accuracy of this statement and,
10 if the defendant should be called upon to testify about this matter in the future, any
11 intentional material inconsistencies in the defendant's testimony may subject the defendant
12 to additional penalties for perjury or false swearing, which may be enforced by the United
13 States under this agreement.

14 **APPROVAL AND ACCEPTANCE OF THE DEFENDANT**

15 I have read the entire plea agreement with the assistance of my attorney. I
16 understand each of its provisions and I voluntarily agree to it.

17 I have discussed the case and my constitutional and other rights with my attorney.
18 I understand that by entering my plea of guilty I shall waive my rights to plead not guilty,
19 to trial by jury, to confront, cross-examine, and compel the attendance of witnesses, to
20 present evidence in my defense, to remain silent and refuse to be a witness against myself
21 by asserting my privilege against self-incrimination, all with the assistance of counsel, and
22 to be presumed innocent until proven guilty beyond a reasonable doubt.

23 I agree to enter my guilty plea as indicated above on the terms and conditions set
24 forth in this agreement.

25 I have been advised by my attorney of the nature of the charges to which I am
26 entering my guilty plea. I have further been advised by my attorney of the nature and range
27 of the possible sentence and that my ultimate sentence shall be determined by the Court
28 after consideration of the advisory Sentencing Guidelines.

1 My guilty plea is not the result of force, threats, assurances, or promises, other than
2 the promises contained in this agreement. I voluntarily agree to the provisions of this
3 agreement and I agree to be bound according to its provisions.

4 I understand that if I am granted probation or placed on supervised release by the
5 Court, the terms and conditions of such probation/supervised release are subject to
6 modification at any time. I further understand that if I violate any of the conditions of my
7 probation/supervised release, my probation/supervised release may be revoked and upon
8 such revocation, notwithstanding any other provision of this agreement, I may be required
9 to serve a term of imprisonment or my sentence otherwise may be altered.

10 This written plea agreement, and any written addenda filed as attachments to this
11 plea agreement, contain all the terms and conditions of the plea. Any additional
12 agreements, if any such agreements exist, shall be recorded in a separate document and
13 may be filed with the Court under seal; accordingly, additional agreements, if any, may not
14 be in the public record.

15 I further agree that promises, including any predictions as to the Sentencing
16 Guideline range or to any Sentencing Guideline factors that will apply, made by anyone
17 (including my attorney) that are not contained within this written plea agreement, are null
18 and void and have no force and effect.

19 I am satisfied that my defense attorney has represented me in a competent manner.

20 I fully understand the terms and conditions of this plea agreement. I am not now
21 using or under the influence of any drug, medication, liquor, or other intoxicant or
22 depressant that would impair my ability to fully understand the terms and conditions of this
23 plea agreement.

24
25 4/17/18
Date

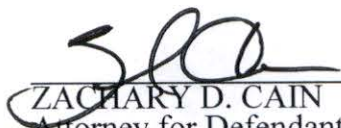
26 
27 SAMER HUSSEIN
28 Defendant

APPROVAL OF DEFENSE COUNSEL

I have discussed this case and the plea agreement with my client in detail and have advised the defendant of all matters within the scope of Fed. R. Crim. P. 11, the constitutional and other rights of an accused, the factual basis for and the nature of the offense to which the guilty plea will be entered, possible defenses, and the consequences of the guilty plea including the maximum statutory sentence possible. I have further discussed the concept of the advisory Sentencing Guidelines with the defendant. No assurances, promises, or representations have been given to me or to the defendant by the United States or any of its representatives that are not contained in this written agreement. I concur in the entry of the plea as indicated above and that the terms and conditions set forth in this agreement are in the best interests of my client. I agree to make a bona fide effort to ensure that the guilty plea is entered in accordance with all the requirements of Fed. R. Crim. P. 11.

Date

4/17/18


ZACHARY D. CAIN
Attorney for Defendant

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APPROVAL OF THE UNITED STATES

I have reviewed this matter and the plea agreement. I agree on behalf of the United States that the terms and conditions set forth herein are appropriate and are in the best interests of justice.

ELIZABETH A. STRANGE
First Assistant United States Attorney
District of Arizona

APRIL 17, 2018
Date

For 
LACY COOPER
Assistant U.S. Attorney

ACCEPTANCE BY THE COURT

Date

HONORABLE JOHN J. TUCHI
United States District Judge